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FEDERAL HOUSING FINANCE AGENCY  
6

7 UNITED STATES DISTRICT COURT  
8 NORTHERN DISTRICT OF CALIFORNIA  
9 SAN FRANCISCO DIVISION

10 COMMERCE HOME MORTGAGE, LLC,

11 Plaintiff,

12 v.

13 FEDERAL HOME LOAN BANK OF SAN  
FRANCISCO, a federally chartered  
corporation; and DOES 1 through 10,  
15 inclusive,

16 Defendants, and

17 FEDERAL HOUSING FINANCE  
AGENCY,

18 Defendant-Intervenor.  
19

Case No. \_\_\_\_\_

**DEFENDANT-INTERVENOR  
FEDERAL HOUSING FINANCE  
AGENCY'S NOTICE OF REMOVAL  
OF CIVIL ACTION UNDER 28 U.S.C.  
SECTION 1442**

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1 TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN  
2 DISTRICT OF CALIFORNIA, PLAINTIFF AND ITS ATTORNEYS OF RECORD,  
3 DEFENDANT AND ITS ATTORNEY OF RECORD:

4 PLEASE TAKE NOTICE that Intervenor Federal Housing Finance Agency (“FHFA”)  
5 hereby removes this civil action from the Superior Court of the State of California for the County  
6 of San Francisco to the United States District Court for the Northern District of California  
7 pursuant to 28 U.S.C. § 1442(a)(1).

8 **JURISDICTIONAL STATEMENT**

9 On July 22, 2021, the Superior Court granted FHFA’s motion to intervene in this action  
10 and in July 23, 2021, FHFA filed its Answer in Intervention. FHFA, as a federal agency, has the  
11 right to remove this Action and this Court has jurisdiction under 28 U.S.C. § 1442(a)(1).

12 **BASIS FOR REMOVAL**

13 I. **Procedural History**

14 On January 15, 2021, Plaintiff Commerce Home Mortgage, LLC (“Plaintiff”) filed this  
15 action in the Superior Court of the State of California for the County of San Francisco. On  
16 March 9, 2021, Defendant Federal Home Loan Bank of San Francisco (“FHLB-SF”) removed  
17 this action to this Court. On March 26, 2021, Plaintiff filed a motion to remand under 28 U.S.C.  
18 § 1447. On May 24, 2021, this Court granted Plaintiff’s motion to remand.

19 Upon remand, Plaintiff filed a First Amended Complaint on June 8, 2021, a true and  
20 correct copy of which is attached hereto as **Exhibit A**. On June 28, 2021, FHFA filed a motion  
21 to intervene in the case. On July 22, 2021, the court granted FHFA’s motion to intervene  
22 (“Order Granting FHFA’s Intervention”). On July 23, 2021, FHFA served Notice of Entry of the  
23 Order Granting FHFA’s Intervention, a true and correct copy of which is attached hereto as  
24 **Exhibit B**. Also on July 23, 2021, FHFA filed its Answer in Intervention, a true and correct  
25 copy of which is attached hereto as **Exhibit C**. This Notice of Removal, filed one business day  
26 later, is timely.

## **II. Removal is Proper Under 28 U.S.C. § 1442(a)(1)**

Under 28 U.S.C. § 1442(a), “[a] civil action ... that is commenced in a State court and that is against or directed to [the United States or any agency thereof] may be removed by them to the district court of the United States for the district and division embracing the place wherein it is pending.” FHFA is a federal agency established by the Housing and Economic Recovery Act of 2008, Pub. L. No. 110-289, 122 Stat. 2654. Therefore, FHFA, in its capacity as regulator and as Intervenor-Defendant in this action, may remove this action to federal court, and this Court has jurisdiction over the action.

WHEREFORE, FHFA prays that the state court action now pending in the Superior Court for the State of California for the County of San Francisco be removed to this United States District Court for the Northern District of California.

Dated: July 26, 2021

Respectfully submitted,

ARNOLD & PORTER KAYE SCHOLER LLP

By: /s/Douglas A. Winthrop  
DOUGLAS A. WINTHROP

*Attorneys for Defendant-Intervenor  
Federal Housing Finance Agency*